REMARKS

The following remarks are offered in complete response to the Official Action/Restriction and Election of Species Requirement dated January 16, 2007. In light of these remarks, reconsideration of the requirements and examination of all of the claimed subject matter on the merits are respectfully requested.

Claims 1-33 are now pending in this application.

Claim 2 has been amended to correct a typographical error by replacing "are" with "one". Support for this amendment is found at least in paragraphs [0010] and [0011] of the specification. Claims 2-5 have been amended to replace -(C=0)-R with -(C=O)-R to correct a typographical error where "0" (zero) was inadvertently used in place of "O". Support for this amendment is found at least in paragraph [0010] of the specification and in Claim 1. Claim 7 has been amended to clarify that the composition further comprises at least one member from a specific groups of compounds. This amendment is made to remove any possible ambiguity in the claim language and to remove a possible interpretation that the previous claim language may have required at least one member from each of the specific groups of compounds. Support for this amendment is found at least in paragraph [0034] of the specification.

Restriction has been required between Group I, Claims 1-5; Group II, Claims 6-13; and Group III, Claims 14-33.

Applicants hereby elect, with traverse, Group I. Claims 1-33 read on elected Group I.

In response to the requirement for election of a single disclosed species, applicants hereby elect, with traverse, the single disclosed species comprising example 5: (3E,5E)-6-[3-(3,4-bis-hydroxymethylbenzyloxy)-phenyl]-1,1,1-trifluoro-2-trifluoromethylocta-3,5-dien-2-ol. Claims 1-33 read on the elected disclosed species.

For proper restriction between patentably distinct inventions: (1) the inventions must be independent or distinct as claimed; and (2) there would be a serious burden on the Examiner if restriction is not required. See M.P.E.P. § 803.

The Examiner takes the position that:

> Inventions of Group I and II-III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product, or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the process for using the product as claimed can be practiced with another materially different product. Because these invention are independent or distinct for the reasons given above and there would be a serious burden on the Examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

The Requirement for Restriction should be withdrawn because it is believed that search and examination of the subject matter of Groups I, II and III would be substantially coextensive. Group I, Claims 1-5, is drawn to vitamin D analogs selected from a specific group of compounds. Group II, Claims 6-13, is drawn to compositions comprising the vitamin D analogs of Group I. Group I and Group II are related in that Group II is directed to compositions that comprise the compounds of Group I. The compositions of Group II cannot be prepared without the use of at least

one vitamin D analog from Group I. Applicants submit that it is likely that a search for the vitamin D analog compounds in Group I would include references that relate to compositions comprising the vitamin D analog compounds in Group I and any additional search would not impose a serious burden on the Examiner. Group III (Claims 14-33) is drawn to a regime or regimen for treating various conditions by administering a composition of Group II, which must comprise at least one vitamin D analog from Group I. Therefore Groups I and II are related to Group III as to product and method of use. Therefore elected Group III should be considered together with Groups I and II. Applicants further submit that it is likely that a search for the vitamin D analog compounds in Group I would include references that relate to a regime or regimen for treating various conditions by administering a composition comprising at least one vitamin D analog from Group I and any additional search would not impose a serious burden on the Examiner. Thus, Applicants submit that search and examination of the subject matter of elected Group I would likely encompass a search for the subject matter for Groups II and III, and any additional search would not impose a serious burden on the Examiner.

Applicants also traverse the election of species requirement because election of species normally presupposes that the generic claims are unpatentable and no art has been adduced which would militate against the allowance of a generic claim herein, for example generic claim 1.

In view of the foregoing, it is believed that the restriction requirement should be withdrawn and that all claims should be examined on their merits herein. At the very least, rejoinder should be permitted when an elected Group I product claim is found allowable. It is believed that the rejoinder of Group II (Claims 6-13) and

Group III (Claims 14-33) with elected Group I would be required by M.P.E.P. 821.04(b) as revised August 2006. Applicants intend to maintain dependency of the method claims on the product claims or to otherwise include the limitations of the product claims in these other claims so as to maintain their right to rejoinder.

Respectfully submitted,

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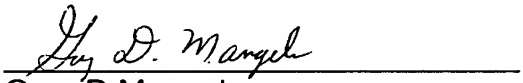
By: 
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